HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 24408 OF 1998

DATED: 19.6.2007

Between:

The Cuddapah Garments Manufacturers
Cooperative Society Limited

… Petitioner

and

The Chief Engineer, Roads and Buildings
Department and others

… Respondents

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 24408 OF 1998

ORAL ORDER:

The petitioner filed this writ petition with a prayer as follows:

> ***"…in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ in the nature of Mandamus or any other appropriate writ or direction or order, declaring the action of the respondents 1 to 3 and their subordinates in placing the orders to the Respondents 4 to 6 for supply of the cloth and stitching of dresses to be supplied to the Government departments, as being illegal, arbitrary, unjust, improper apart from violative of Fundamental Right guaranteed to the petitioners society under Article 19(1) (g) and Article 21 of the Constitution of India as the petitioner has been supplying the cloth and stitching of dresses as per the specification and rates fixed by the Dept of Handlooms and Textiles, Govt. of A.P. for the last several years as the Petitioner's Society is under the control of supervision of the said dept and affiliated to APCO, while directing the Respondents 1 to 3 and their subordinates to place orders only to the petitioner's society for the supply of cloth and stitching of dresses to be supplied to the Government Departments and pass such other orders."***

According to the petitioner, it is a society registered under the Cooperative Societies Act and it is in the manufacturing of livery and

also stitching of clothes to the Government departments. However, as the respondents particularly the respondents 1 to 3, instead of giving effect to the terms of G.O.Ms.No.438 dated 5.9.1983, wherein it is directed that the Government shall purchase 100% of the requirement of cloth for supply of delivery from Andhra Pradesh Handloom and Weavers' Cooperative Society Limited and for the requirement of cloth for the remaining items, such as, bed sheets, towels, door curtains etc., 50% of the requirement shall be purchased from the said cooperative society and 50% from A.P. Khadi and Village Industries Board, are placing orders with respondents 4 to 7, it was constrained to approach this court and file the present writ petition.

Despite the fact that the respondents are served with notices, they have not chosen to file any counter.

During the course of hearing, the learned counsel appearing for the petitioner has drawn my attention to the judgment of a Division Bench of this court dated 27.1.2006 made in W.P.No.24857 of 2005, wherein this court gave a direction to the respondents therein to give effect to the terms of the G.O.Ms.No.438 dated 5.9.1983 without any breach. The text of the said order is as follows:

> ***"On 26.12.2005, the Court had, after taking cognizance of the complaint made in the petition, passed the following order:***
>
> ***"The petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India for implementing the policy decisions taken by the State Government from time to time for purchase of clothes by the Government Departments from A.P. Handloom and Weavers Cooperative Society Limited.***
>
> ***The petitioner complains that despite repeated***

instructions issued by the State Government, the departmental authorities have been purchasing clothes from the agencies other than A.P. Handloom and Weavers Cooperative Society Limited and these actions cause grave injury to the interest of the Weavers community.

In the counter affidavit filed by the General Manager of respondent No.3, it has been averred that various departmental authorities have been purchasing the clothes from it in furtherance of the policy decision taken by the Government. Similar affidavit has been filed on behalf of 5th respondent.

Learned counsel for the petitioner submits that various departmental authorities have been purchasing clothes from agencies other than respondent No.3. He pointed out that in the month of September 2005, respondent No.6 placed an order with respondent No.7 for purchase of clothes worth Rs.80.00 lakhs.

Learned Special Government Pleader says that he would look into the matter, discuss the same with the senior officers of the government and ensure that instructions are issued for taking punitive action against those who violates the policy decision taken by the Government for purchase of clothes from A.P. Handloom and Weavers Cooperative Society Limited.

Adjourned to 27.1.2006.

We hope and trust that in the meanwhile, the authorities concerned will take serious view of the violation of policy decision by subordinate authorities and issue unequivocal instructions that in future violation of the policy decisions would be treated as misconduct, action will be taken and the guilty persons will be proceeded departmentally.

The Court Officer is directed to handover an attested copy of this order to the learned Government Pleader for facilitating necessary action."

In compliance of the direction given by the Court, the State Government has issued Memorandum No.218/Tex-1/2006-2, dated 21.1.2006 for ensuring total compliance of the directions given earlier for purchase of liveries and clothes from APCO. Learned Government Pleader says that the instructions issued by the Government will be strictly enforced and it will be ensured that no functionary of the Government is able to purchase liveries etc., from any

agency other than through APCO. He further states that enquiry is being made into the allegation of violation of the Government instructions by respondent No.6 i.e., Executive Engineer, Roads and Buildings, Cuddapah and being found guilty, appropriate action will be taken against the concerned officer.

In view of the action taken by the State Government to reiterate the earlier instructions and the statement made by the learned Government Pleader, the writ petition is disposed of with the direction that any violation of the policy of the Government in future should be strictly dealt with and punitive action be taken against the defaulter. The report of the enquiry conducted against respondent No.6 be produced before the Court at the end of three months period. The case be listed after three months only for the purpose of perusal of the report which may be submitted by the State Government."

In the light of the said order, wherein the Division Bench of this court has clearly directed the departments of Government to implement the terms of the G.O.Ms.No.438 dated 5.9.1983, this writ petition is also allowed and a writ of Mandamus is issued directing the official respondents herein to give effect to the abovementioned G.O. No order as to costs.

GOPALA KRISHNA TAMADA, J

Date: 19.6.2007
cvm